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July 19, 2002

**BY E-FILING AND BY HAND**

Mary L. Cottrell, Secretary  
Department of Telecommunications & Energy  
One South Station  
2<sup>nd</sup> Floor  
Boston, MA 02110

**Re: D.T.E. 01-34 Investigation by the Department of Telecommunications and Energy on its own motion pursuant to G.L.c. 159, §§ 12 and 16, into Verizon New England d/b/a Verizon Massachusetts' provision of Special Access Services**

Dear Secretary Cottrell:

XO Massachusetts, Inc. ("XO") has recently completed its review of the Reply Brief of Verizon Massachusetts that was filed in this proceeding last week. Although the procedural schedule does not contemplate further filings, XO believes that two relatively small points raised in Verizon's Reply Brief necessitate very brief clarification by XO. To the extent that leave to make such a filing is required, XO hereby seeks such leave on the basis that XO's positions may have been and may continue to be misunderstood and clarification now will avoid the possibility of mistake later.

Specifically, on page 14 of the Verizon Reply Brief, it is stated that XO recommends (with AT&T) "that the Department override the FCC's "safe harbor" rules and require Verizon MA to convert special access circuits to UNEs. In reality, XO urged that (a) the Department should consider whether Verizon was improperly forcing CLECs to seek special access services by taking the position that no EEL facilities were available, when such facilities might be available without significant construction; and (b) that to the extent that no EEL facilities were available legitimately, then Verizon's special access service ordering process should be streamlined to avoid the additional and unnecessary delay of starting the ordering process anew. These points are wholly distinct from the "safe harbor" concept and conversion of special access circuits to UNEs. Nor are these concerns wholly new issues, as Verizon alleges. The issue came up in testimony of a WorldCom witness (see XO Initial Brief, p. 2) and it is certainly appropriate to suggest remedies to a demonstrated problem.<sup>1</sup>

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<sup>1</sup> One of XO's suggested remedies concerned streamlining of the ordering process (XO Initial Brief, pp. 11) XO certainly did not intend to suggest that the NYPSC had ordered that remedy or to breach any confidences. Although the task force report wasn't yet released, that release is anticipated at any time, no harm results from the

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Should there be any questions on this filing, kindly contact the undersigned.

Very truly yours,

Eric J. Krathwohl

cc: Joan Foster Evans, Hearing Officer (by hand)  
Michael Isenberg, Director – Telecom (by hand)  
Service List (electronic)

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comments and most importantly, the New York Commission had already ruled on the matter at an open public session.